

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Koch, et al.]
Serial No.: 10/710,845] Examiner: Anthony N. Bartosik
Confirmation No.: 4844]
Filed: 08/06/2004] Group Art Unit: 3635
For: COMBINATION FLASHING AND]
DRAINAGE SYSTEM]

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION TRAVERSING REJECTION
37 CFR 1.132

To the Commissioner for Patents:

I, Joseph G. Lincourt, being duly sworn, declare as follows:

1. That I am one of the inventors named in the above-captioned patent application.
2. That as president of York Manufacturing I have been lecturing to architecture and masonry for the last five years on the topic of flashing selection and installation. Previous to that I was employed at US Felt marketing wicking systems to the electric motor industry and became expert at wicking technology. That, backed up by my

Bachelors Degree in Mechanical Engineering, represents my basis for expert status on this topic.

3. That, on account of my education, position, and experience, I consider myself to be an expert in the field flashing.

4. That I am familiar with the claimed invention, namely, a combination through-wall masonry flashing / drainage device comprising a flashing membrane, the flashing membrane having a first side and a second side opposite the first side; a reinforcing cloth adhered to the flashing membrane first side; and a wicking cloth adhered to the flashing membrane second side, hereinafter referred to as FLASHVENT.

5. That others who are either experts or skilled in the art were skeptical that the invention operates as claimed.

6. That Richard A. Lolley is either an expert or is skilled in the art, and that he expressed skepticism in the claimed invention in his letter that appears on page 9 of *The Construction Specifier*, February 2006, attached hereto as Exhibit 1.

7. That co-inventor David G. Koch is also either an expert or is skilled in the art, and that he successfully rebutted Lolley's claims in his response appearing on page 9 and 10 of Exhibit 1.

8. That Bill Lundsford is also either an expert or is skilled in the art, and that he also expressed skepticism in a letter addressed to Bob Ogorzaly of August 14, 2006.

9. That we have successfully used FLASHVENT in a number of applications, including but not limited to those on the list attached as Exhibit 2.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

/Joe Lincourt/

Joseph G. Lincourt

Date: February 5, 2008

BILL LUNSFORD

125 ROYAL OAK DRIVE
 ALEDO, TEXAS 76009
 817 300 7262
 WLunford@aol.com

- SPECIFIED
- MATERIALS
- MARKETING

ROY: TAKE
 A LOOK AT
 THIS.

DAVE WATTS

HERVE SOLVANT
 210-223-9492

August 14, 2006

Mr. Bob Ogorzaly
 O'Connell Robertson & Assoc.
 811 Barton Springs Road
 Suite 900
 Austin, Texas 78704

Dear Bob,

As part of my usual process of reviewing projects in my territory for Mortar Net, I couldn't help noticing that your specifications for the Texas State University Pecos building include a product called "Flash-Vent", by York Manufacturing. Your purpose, of course, is to guard against moisture damage arising within the masonry.

Since Flash Vent isn't specified very often, we don't consider it any threat to our company's leadership position in the industry. However, we thought you'd appreciate knowing what we discovered when we examined it:

The absorbent fabric attached to the flashing does indeed "wick moisture", just as the company's advertising states.

Unfortunately, though, it wicks moisture deep INTO the building... and in sizable quantities.

The enclosed CD demonstrates this "wicking-in" rather vividly. You'll see that when the exterior moisture is introduced, it moves rapidly into the wall cavity. (You'll also note that our test delivered less moisture, and for a shorter duration than, say, one heavy rainstorm.)

We hope you find this data useful. Our mission is to help architects get the best moisture control available. As you may know, Mortar Net's patented drainage systems provide state-of-the-art effectiveness and dependability. Many architects have found that there is no "or equal" for Mortar Net systems.

We'd welcome the chance to discuss this further with you or your colleagues. In fact, Mortar Net offers a Lunch n Learn on Masonry Moisture Management. We'd be happy to present it to your firm if you'd like. Just call me or drop me an e-mail.

Very best wishes,

Bill Lunsford

Bill Lunsford

P.S. If you can't view the CD right now? Simply immerse one end of the Flash Vent material (enclosed) in a cup of coffee. Watch the coffee wick-uphill-into the strip.

MASONRY PRODUCTS AND ACCESSORIES

TO: Joe Lincourt

8/15/06

Exhibit 2 to Joseph Lincourt Declaration

FLASH-VENT PROJECTS

3 ounce Flash vent

Project: Rhode Island Youth Assessment/Development Training Facility

Owner: Rhode Island State Purchasing

Architect: Ricci Greene Associates

Phone# (212)563-9154

Mason: MF Construction

3 ounce Flash Vent

Project: Warwick Fire Dept. Headquarters

Owner: City of Warwick Div. of Purchasing

Architect: Cole & Russell Architects, Inc

Phone# (513)721-8080

Construction Manager: H V Collins Co.

3 Ounce Flash Vent

Project: Ponaganset High School

Owner: Foster-Glocester Reg. School Dist.

Architect: Aharonian Associates

Phone# (401)333-5010

Construction Manager: H V Collins Co.

5 ounce Flash Vent

Project: Traffic Tribunal Court House

Owner: Department of Administration

Architect: Edward Rose Architects, Inc.

Phone# (401)331-9200

Owner: Aurora School Dist # 129, Aurora, IL.

Project: Herget Middle School

G.C.: R.C. Wegman

Mason: Cyberdyne Masonry

Architect: Clark Assoc.

Project: Riverpark, Portland, OR

Mason: Bordak Brothers

G.C.: Porter Construction

Architect: Exterior Research and Design

Project: MUSC Pediatrics
Charleston, SC
Mason: Western Waterproofing
G.C.: Chastain Construction
Architect: Stubbs, Muldrow and Herin Arch.

Project: First Savings Bank of Granbury Texas
Architect: Gaffin and Assoc.

High Mark Data Center
Harrisburg, PA
Architect: RTKL - - Baltimore, MD.

Cristalla Condominiums
Seattle, WA
Arch: Exterior Research and Design
G.C.: North Shore Sheet Metal

NRG Building Services
Hagerstown, MD
Private residence

Woodlawn Elementary School
San Antonio, TX
DeMunbrun / Scarnito Architects

Buffalo Grove Bank and Trust
Buffalo Grove, IL
Geudtner and Melichar Architects

Waynesbury College
New Residence Hall
Waynesbury, PA

Del Mar College
Corpus Christi, TX
Architects:
Richter & Assoc
Bartlett/Cocke G.C.

Belk Hall
UNCW
Wilmington, NC

Hilton Gardens
Atlanta, GA

Goodall Hospital Medical Office Building
Sanford, ME
Sheridan Corp.

Santa Rosa Jr. College Library
Santa Rosa, CA
TLCD Architecture
White Construction

Walzem Elem. School
San Antonio, TX
DeMundron/ Scarnato Architects

Stark State College
Stark County
Canton, OH

Morman Residence
San Antonio, TX
G.C.: Alpha Insulation

Beta House Fraternity
Spring Mills, PA
Mason: Greenland + Son Masonry

Wil Research Laboratory
South addition
Ashland, OH
Mason: DC Meyer Masonry